REMARKS

I. INTRODUCTION

Claim 1, 13, 16 and 17 have been amended. No new matter has been added. Thus, claims 1-14 and 16-26 remain pending in the present application. In view of the following remarks, it is respectfully submitted that all of the pending claims are allowable.

II. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

Claims 1-14 and 17-26 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 6,578,012 B1 to Storey ("the Storey patent") in view of U.S. Pat. No. 6,694,300 to Walker et al. ("the Walker patent"). (See 3/7/06 Office Action, p. 2).

The Storey patent describes an on-line, interactive incentive program. (See the Storey patent, col. 1, lines 63-65). A user accesses the incentive program by initially viewing a program homepage 300 which contains links to product pages of merchants participating in the incentive program. (Id. at col. 4, lines 1-16). When the user indicates a desire to purchase the product, a credit check routine 140 is executed, and, upon approval, a product order 160 is placed with the merchant of the product. (Id. at col. 5, lines 32-42). If the user is enrolled in the incentive program, award points are calculated based on the product and added to an account of the user. (Id. at col. 5, lines 45-55). After amassing points, the user may view an awards catalog via an award catalog homepage 400. (Id. at col. 7, lines 47-49). The user may redeem the points for awards, which are products from merchants participating in the incentive program. (Id. at col. 9, lines 51-61).

The Walker patent describes a system for providing supplementary product sales as a function of a purchase parameter at a point of sale ("POS") terminal. (See the Walker patent, Abstract). A merchant, by registering with a credit card issuer, can provide offers for

supplementary products ("upsells") at the POS terminal of other merchants. (Id. at col. 3, lines 18-39). Thus, when a customer uses the credit card at the POS terminal, a central controller connected thereto transmits an upsell product offer to the POS terminal. (Id. at col. 5, lines 14-25). The upsell product offer transmitted by the central controller depends upon the purchase parameter (e.g., product purchased, purchase price, date, time of day, etc.). (Id. at col. 5, lines 40-61). Depending on the type of upsell product offer and whether the customer accepts it, the central controller may credit/debit one or more financial accounts specific to the merchant, the customer and/or a further merchant (e.g, manufacturer of upsell product). (Id. at col. 8, lines 42-52).

Claim 1 recites "a method for *cross-marketing products between a first company and a second company engaged in a bilateral cross-marketing relationship*," wherein the method includes the steps of "*calculating and recording an amount of cross-marketing revenue realized from the first purchase to a marketing fund account in the database*" and "*allocating at least a portion of the cross-marketing revenue in the fund to reimburse the second company for the discount.*" After completing the first purchase at the first company, a consumer is awarded a discount on a second product at the second company. The first company contributes a predetermined dollar amount to the marketing fund account which is used to reimburse the second company for the discount on the second product. (See Specification, p. 4, lines 1-5). As the Examiner has recognized, the Storey patent does not teach or suggest "calculating and recording an amount of cross-marketing revenue realized from the first purchase to a marketing fund account in the database" and "allocating at least a portion of the cross-marketing revenue in the fund to reimburse the second company for the discount." (See 3/7/06 Office Action, p. 3). The Examiner attempts to cure this deficiency by suggesting that the Walker patent discloses these elements.

It is respectfully submitted that the Walker patent does not disclose or suggest "cross-marketing products between a first company and a second company engaged in a bilateral cross-marketing relationship" and "calculating and recording an amount of cross-marketing revenue

realized from the first purchase to a marketing fund account in the database" and "allocating at least a portion of the cross-marketing revenue in the fund to reimburse the second company for the discount," as recited in claim 1. As noted by the Examiner, the Walker patent teaches a relationship between first and second merchants which is not one-to-one, but an affiliation resulting from registering with a third-party credit card company. (See 3/7/06 Office Action, p. 3). As taught by the specification of the present invention, two merchants may drive consumers to each other when a bilateral relationship exists between the two merchants. (See Specification, p. 4, line 27 -p. 5, line 1). In such a relationship, both merchants contribute to a cross-marketing fund to defray each other's cost of dispensing merchandise. (Id. at p. 5, lines 1-7). Merchants may also negotiate parameters of the relationship, such as contributions made by each merchant for straight and incremental sales, geographic conditions and product specific conditions. (Id. at p. 10, line 12 - p. 11, line 6).

In contrast, Walker's relationship does not involve "registering, associating or affiliating with any...other merchants." (See the Walker patent, col. 3, lines 9-10). A sponsoring merchant specifies the conditions under which a supplementary product is offered for sale to a customer at a terminal of a second merchant. (Id. at col. 5, lines 17-25). Thus, the second merchant has no control over when and where the supplementary product is sold. In fact, the second merchant is completely unaware that the sponsoring merchant is even offering the supplementary product. Since there is no agreement between the merchants regarding the terms and conditions of the supplementary product offering, the Walker patent clearly does not show a bilateral relationship. Furthermore, according to the Examiner's definition of cross-marketing, partnership between participating businesses is required. (See 3/7/06 Office Action, p. 8). As previously described, the Walker patent does not teach agreements between merchants, and therefore does not teach partnership. Thus, it is respectfully submitted that the Walker patent neither discloses nor suggests "cross-marketing products between a first company and a second company engaged in a bilateral cross-marketing relationship," as recited in claim 1.

In addition, the Examiner contends that a marketing fund is simply a generic account in a

database. (Id.). However, as recited in claim 1, the cross-marketing relationship is bilateral. Therefore, the marketing fund is set up specifically to allow merchants to reimburse each other for expenses incurred as a result of cross-marketing related sales. Although the Walker patent does teach reimbursement, the reimbursement is for expenses related to a regular sale and the account maintained by the credit card company is a generic account. The sponsoring merchant is being reimbursed for a sale of its own product, not for cross-marketing expenses. Therefore, the revenue is ordinary sales revenue. Because the merchants are unaffiliated, for each acceptance of an upsell product offer, only entity-specific accounts are adjusted (e.g., one merchant account and one customer account). Thus, it is respectfully submitted that neither the Storey patent nor the Walker patent, either alone or in combination, discloses or suggests "calculating and recording an amount of cross-marketing revenue realized from the first purchase to a marketing fund account in the database" and "allocating at least a portion of the cross-marketing revenue in the fund to reimburse the second company for the discount," as recited in claim 1. Because claims 2-12 depend from and, therefore, include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Similar to claim 1, independent claim 13 is directed to a method for cross-marketing products between a first company and a second company engaged in a bilateral cross-marketing relationship," wherein the method includes the steps of "crediting an account of the consumer maintained at the server with the discount" and "wherein the amount of money deposited into the account is a predetermined percentage of revenue realized from the purchase of the first product." As noted above, neither the Storey patent nor the Walker patent, either alone or in combination discloses such an account. Therefore, it is respectfully submitted that claim 13 is allowable for the same reasons as discussed above with regard to claim 1, and that the rejection of this claim should be withdrawn. Because claim 14 depends from, and therefore includes all of the limitations of claim 13, it is respectfully submitted that this claim is allowable, as well.

Similar to claim 1, independent claim 17 recites a method for cross-marketing products between a first company and a second company engaged in a bilateral cross-marketing

relationship," wherein the method includes the steps of "recording an amount of the cross-marketing revenue realized from at least the first purchase to a marketing fund account." As discussed above with regard to claim 1, neither the Storey patent nor the Walker patent, either alone or in combination discloses "a marketing fund account." Therefore, Applicants respectfully submit that claim 17 is allowable, and that the rejection of this claim should be withdrawn. Because claims 18-26 depend from, and therefore include all of the limitations of claim 17, it is respectfully submitted that these claims are allowable at least for the reasons stated above.

Claim 16 stands rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 5,687,322 to Deaton et al. ("the Deaton patent") in view of the Walker patent. (See 9/29/05 Office Action, p. 3).

The Deaton patent describes a transaction processing system that uses a customer's financial instrument account number as a unique customer identification number. (See the Deaton patent, col. 4, lines 50-65). A database records the dates of transactions, and coupons are distributed to the customer based on frequency of shopping, dollar volume, or other shopping habit-based criteria. (Id. at col. 65, line 38 to col. 66, line 64). The decision to award a coupon may be based on the departments (e.g., meat, dairy, deli) from which products are purchased. (Id. at col. 69, lines 49-67).

Claim 16 recites a method for cross marketing products between a first department and a second department at a company...*wherein the first and second departments are engaged in a bilateral cross-marketing relationship*," the method including the steps of "depositing a predetermined amount of money into an account maintained on the server for the benefit of the second department in at least partial compensation for accepting the discount" and "at the second department, offering for sale the second product and standing ready to accept the discount at the same or a different one of the plurality of sales terminals on the second product, *wherein the money deposited into the account for the benefit of the second department amounts to a*

predetermined percentage of revenue realized from the purchase of the first product."

As the Examiner noted, the Deaton patent fails to teach or suggest "depositing money into an account on the server for the benefit of the second department in at least partial compensation for accepting the discount wherein the money deposited into the account for the benefit of the second department amounts to a predetermined percentage of revenue realized from the purchase of the first product." (See 3/7/06 Office Action, p. 6). The Examiner attempts to cure this deficiency by suggesting that the Walker patent discloses these elements. However, as discussed above with reference to claim 1, the Walker patent fails to disclose or suggest "a bilateral cross-marketing relationship" and "allocating at least a portion of the cross-marketing revenue in the fund to reimburse the second company for the discount." Accordingly, it is respectfully submitted that the Walker patent does not cure this deficiency of the Deaton patent, and that neither the Deaton patent nor the Walker patent, either alone or in combination, discloses or suggests "wherein the first and second departments are engaged in a bilateral cross-marketing relationship" and "wherein the money deposited into the account for the benefit of the second department amounts to a predetermined percentage of revenue realized from the purchase of the first product," as recited in claim 16. Thus, Applicants respectfully request that the rejection of claim 16 be withdrawn.

CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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